

ADVISORY COUNCIL ON SHELLFISHERIES

MINUTES OF JANUARY 4, 2006

Richardson and Robbins Building Auditorium
89 Kings Highway, Dover, Delaware 19901
Phone: 302-739-9914, Fax: 302-739-6157

ADVISORY COUNCIL

Leonard "Limbo" Voss, Jr., Chair
Patrick Gaffney
Larry Foley
Virgilio Pacelli
Paul Satterfield
Steven Copp
Charles Auman

DIVISION OF FISH & WILDLIFE

Roy Miller
Rick Cole
Jeff Tinsman
Dave Bruce
Lt. John Rutherford-Enforcement
Karen Bennett, Kevin Kalasz-Wildlife
Kim Records

PUBLIC

24 Visitors

A digital recording of this meeting may be screened in the Fisheries section of the Division of Fish & Wildlife at the Richardson & Robbins Building in Dover. For further information, please contact the Fisheries section at (302)739-9914.

The meeting was called to order by Chairman Leonard Voss, Jr. at 7:30 PM.

OLD BUSINESS --

Agenda Item 1. Approval of Minutes from 4/21/2005

Mr. Voss welcomed everyone and introduced himself as the new Chairman, explaining that he was appointed by the Governor on the recommendation of former chairman Alan Davis. He then introduced new council member Mr. Paul Satterfield. A motion was then made, seconded and carried to approve the minutes from the last meeting held April 21, 2005.

NEW BUSINESS --

Agenda Item 1. Discussion on Only Allowing the Use of One Color Code Per Crab Pot Vessel on Any Given Day

Mr. Voss introduced Lt. John Rutherford, an Enforcement Officer with the DFW. **Lt. Rutherford** presented a proposal which would allow multi-rigged crab pot vessels to run only one color code off of each vessel (i.e. each crab pot vessel would be assigned one color code shared by all commercial crabbers using that vessel). He said this would make it easier for the Enforcement Officers to check for compliance, and the watermen would be less troubled with marking the buoys of their crab pots. He stated that by his estimate, there are approximately 45 commercial crab pot vessels which are currently multiple rigged vessels. After some discussion regarding details of a potential change, **Mr. Foley** requested that the Division present a draft regulation for further review and discussion at the next meeting.

Agenda Item 2. Discussion of Limited Entry into the Federal Sea Scallop Fishery

Mr. Voss said the National Marine Fisheries Service is trying to make the federal sea scallop fishery a limited entry fishery with a control date in late 2004, which would prevent many watermen from being eligible to participate. **Mr. Cole**, who serves as the state's representative on the Mid Atlantic Fishery Management

Council, stated the sea scallop fishery management plan was developed by the New England Fishery Management Council and is administered by the NMFS. He said that this amendment regarding limiting access to the fishery has been placed on high priority and a "scoping" document listing all options being considered will be issued this month or in February. Public meetings to accept comments from the public will also be held in the appropriate coastal states. He said he was told that the current control date of Nov.1, 2004, will be listed in the "scoping" document. The "scoping" document generally informs the public that the Council may consider changes in management strategy for a particular plan and any participants entering that fishery after the control date may have to abide by those changes. **Mr. Voss** introduced Mr. "Rusty" Trout, who has composed a letter to Senator Carper concerning this issue. **Mr. Trout** said his experience has been that the federal sea scallop fishery is very lucrative. He summarized his letter urging Senator Carper to research this issue and lend his support to Delaware's commercial fishermen so that they are not unjustly prevented from participating in this federal fishery. He also encouraged other watermen concerned about this matter to add their name to his letter in hopes that it will portray a more effective alliance. He invited any alterations to the letter. **Mr. Voss** then suggested that the letter also be sent to Senator Biden and Congressman Castle with copies of the finalized version going to the New England Fishery Management Council and the NMFS. **Mr. Auman** made a motion to endorse this letter - motion passed.

Agenda Item 3. Status of Horseshoe Crab Harvest Moratorium

Mr. Miller stated that he wants to be as brief as possible updating everyone on where the Division is in the process of this very controversial proposed horseshoe crab moratorium. He said at the last Atlantic States Marine Fisheries Commission meeting in November the states of

Delaware and New Jersey voted for the proposed amendment to implement a 2-year harvest moratorium with an exemption for existing biomedical needs. He explained that this directs the ASMFC to prepare a specifically worded addendum to the horseshoe crab management plan which includes this 2-year moratorium. The ASMFC Horseshoe Crab Management Board will meet again in February. The 2-year moratorium has already been approved to be included in the new addendum to the plan, but the Board will consider other additional options if offered them. Mr. Miller then went over several internal concepts, which have not yet been presented to the Department Secretary, for options to be included for consideration in the hearing draft. Each of the 3 concepts centered on the idea of a “male only” harvest. **Mr. Voss** recognized ASMFC **Commissioner Rick Robins** from Virginia, who went over the biological data and analysis which ultimately lead to the options Mr. Miller previously went over. Commissioner Robins stated that he considers these options politically viable alternatives to a complete moratorium and urged the Council to sponsor one of the “male only” harvest options. He cautioned the Council that a failure to give the ASMFC Horseshoe Crab Management Board any additional options to consider for the new addendum would result in the complete 2-year moratorium. He said he believes the idea of a directed male horseshoe crab fishery offers something for all parties concerned and therefore would be the only resolution. Audience member **Mr. Michael Litchko** (commercial waterman from NJ) accused Mr. Miller of trying to put DE and NJ fishermen out of business by voting for the moratorium at the ASMFC meeting, and angrily urged commercial watermen to fight against this moratorium. **Mr. Voss** responded to Mr. Litchko by informing him that Mr. Miller was directed by the Department to vote for the moratorium. After additional comments from Mr. Litchko, **Commissioner Robins** stated that tonight’s discussion needs to center around deciding on an alternative, such as a male directed fishery, for presentation to the Horseshoe Crab Management Board as an option to add to the finalized addendum, noting that the 2-year moratorium is already on the hearing draft addendum. **Mr. Voss** agreed saying that he believes it would be too risky to try fighting the moratorium and that he would like an obtainable alternative rather than a complete closure. **Mr. Robert Piascinski** commented from the audience that he would like a sunset clause added which would absolutely limit the moratorium to the specified 2 years and, in the future, he would like to see an improvement in horseshoe crab/shorebird research and a higher quantity of data which would more clearly justify actions such as the implementation of a moratorium. Audience member **Mr. Charles Givens** from NJ stated that anyone interested in attending a NJ meeting with a lawyer tomorrow evening could see him following the meeting for further details. He said they hope to be able to suggest another alternative to the NJ Advisory Council by challenging the science on horseshoe crabs and

shorebirds. **Mr. Auman** made a few other suggestions, including; putting a cap on the commercial eel and conch licenses and having a “male-only” harvest on the beaches. After some further discussion, Mr. Auman made a motion to endorse a male directed fishery option with some allowance for female by-catch retention, stating that it is better than a complete moratorium - motion passed.

Agenda Item 4. Status of Oyster Recovery Funds and Shell Plantings in 2005, and 2006 Shell Planting Plans

Mr. Cole stated that there will be a workshop in this auditorium on February 21st at 7:00 PM which will detail the status of the resource and revitalization efforts. He said there was a \$2 million federal grant appropriated to the U.S. Army Corps of Engineers for revitalization of oyster beds in Delaware Bay. These funds are to be split evenly between DE and NJ, and it is a considerably larger amount than what was received last year. Mr. Cole mentioned that Senator Biden, Senator Carper and Congressman Castle all worked very hard to get this funding.

Agenda Item 5. Conch Dredge Permits – Do We Need Some Form of Limited Entry?

Mr. Miller stated that there are presently 31 conch dredge licenses issued and that this number may double in 2006 due to the “5-year waiting list” for this fishery. He said there is the potential for the resource to become over-fished if the effort should double. Mr. Miller read the legislation that passed in 1994 establishing a limited entry to the conch fishery. It states that the Department “may” issue conch dredge licenses to individuals who have completed a waiting period of 5 years. He briefly went over some preliminary data which details this species as slow-growing, late maturing and long lived. This information increases the concern that the fishery may experience over-fishing. Mr. Miller said in mid December he sent the Department’s Attorney General a memo asking for advice, but he has not heard back from them to date. He then asked the Council for their advice on this issue. **Mr. Foley** stated that he is one of the 31 potential new licensees and after being told by DFW staff in the past that there was a mishap with the waiting list, he had to sign up a second time. He said that the idea of this fishery becoming limited entry now makes him angry, and he feels that before a cap is placed on the number of licenses, the Department should look into restricting the current license holders to a specified bushel limit. The question was asked: how many of the current license holders actually participate in the fishery? **Mr. Bruce** answered approximately 18 are active. **Mr. Miller** responded that because there is no way of knowing how many of these potential license holders will actually invest in the required fishing gear and become active, he believes the potential for over-fishing is there and needs to be considered. **Mr. Voss** stated in the interest of time, he would like the Department to prepare a more detailed report on the conch resource for the next meeting, at which time discussion can resume.

Agenda Item 6. Topics and Tentative Date for Next Meeting

Mr. Voss said he would like to change future meeting times to 7:00 PM (Capt. Willis Hand objected). Since this Shellfish Advisory Council does not meet on a regularly scheduled basis, a suggestion was made that the DFW begin to establish a mailing list to send notice of future meetings from the sign-in sheet for tonight's meeting and meetings to come. **Mr. Miller** explained that the Division currently sends notice via Council members, Department press release, DFW website, DFW list serve and the statewide public meetings calendar. **Mr. Voss** then asked for ideas for topics for the next meeting:

1. **Mr. Foley** suggested that the Council try to make a decision regarding the one color code per crab pot vessel topic.
2. **Mr. Foley** also suggested resuming the conch dredge license issue.
3. **Mr. Auman** suggested having an update on the horseshoe crab issue and he would like to discuss the possibility of allowing collection of horseshoe crabs one day per week during the closure.
4. **Mr. Copp** wants to discuss allowing commercial clamming on Sundays in the summer months.

There being no further business, a motion was made, seconded and carried, and the meeting was adjourned at 9:57 PM.

Respectfully submitted,

Kim Records
Recording Secretary